



Newly  
Introduced

# Determination Procedures

- Treatment of objects recording confidential communications between an enterprise and an attorney -

— Outlines —

## Development of the New Procedure

From the perspective of making the New Leniency Program more effective, which was introduced under the Amended Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (the "AMA") , etc.

The new procedure purports **to return the objects recording the confidential communications between an enterprise and an attorney regarding legal advice on an act alleged to be a violation to which the leniency program may apply immediately without Investigators having access to the contents thereof** when it is confirmed that they are stored appropriately and satisfy certain other conditions.

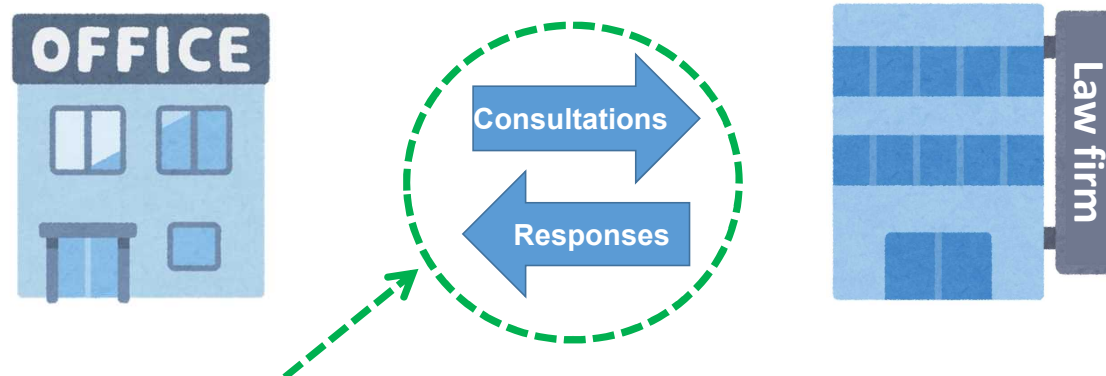
## What kind of investigation will be covered?

The procedure is designed to cover Fair Trade Commission's administrative investigations into an Alleged Act in Violation to Which the Leniency Program may Apply, but not to compulsory investigations.



## [Objects]

- Confidential communications between an enterprise and an attorney (interviews, phone calls, emails, etc.)
- With regard to legal advice on an Alleged Act in Violation to Which the Leniency Program may Apply



This is called "**Specified Communications**".

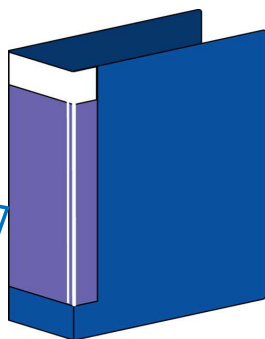
→ The procedure covers the objects (documents, etc.) recording contents of Specified Communications.

## [Method of Custody]

There are 3 key points for custody.

### (i) Indication

公取審査規則特定通信

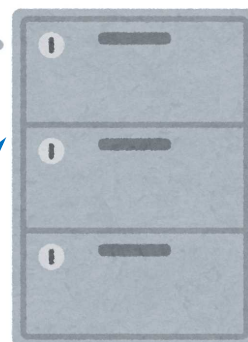


Meaning “Specified Communication under JFTC Investigations Rules”

### (ii) Specific place of storage



Being managed by the legal affairs division



### (iii) Restriction on the scope of the persons who know the contents

Legal affairs division

Confidential




- Investigators do not access the contents of the objects recording contents of Specified Communications.
- Differences in opinions between investigators and enterprises are to be avoided.

## Steps to return the objects

**When a place where the objects recording contents of Specified Communications are stored becomes the target of an on-site inspection** (for an Alleged Act in Violation to Which the Leniency Program may Apply)

During  
an on-site  
inspection

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- (i) **Orally inform** an investigator of the intention to apply for determination procedures for the objects recording contents of Specified Communications
  - (ii) Submit **the application** to the investigator
  - (iii) The objects recording contents of Specified Communications are treated as those that are subject to **a submission order**, separately from other objects.

## Steps to return the objects

### (iii) Order for submission



**Within 2 weeks**

(iv) Submission of the **"log"** (to a determination officer who confirms the documents and to an investigator)



**Within 6 weeks**

(v) The determination officer **confirms** the documents.

(vi) Specified Communication documents that satisfy the requirements are immediately **returned**.

## < Rules and Guidelines >

- ✓ Rules on Investigations by the Fair Trade Commission  
(Article 23-2 to Article 23-5)
- ✓ Guidelines on treatment of objects recording confidential communications between an enterprise and an attorney

